

## Office of the Secretary, Interior

## § 2.14

### § 2.11 Why is it important to send my request to the right office?

The bureau and office FOIA Contacts listed in Appendix A to this part have primary responsibility for responding to FOIA requests. Failure to send your request to the FOIA Contact at the appropriate bureau office may delay processing, because the time limit for the bureau to respond will not begin to run until a request complying with §§ 2.8 and 2.10 is received by the bureau office where the records are maintained. The processing of your request may be delayed if you send it to the Secretary of the Interior (or other high-level officials), the Office of Public Affairs/Communications, the DOI FOIA Officer, or the Department/bureau's webmaster.

### § 2.12 When can I expect the response?

(a) *Basic time limit.* Ordinarily, a bureau has 20 workdays from the date of receipt to determine whether to grant or deny your FOIA request (see paragraph (b) of this section). The bureau will notify you immediately upon reaching its decision. If you have not received a response within 20 workdays, or 30 workdays if an extension has been taken (see § 2.13) (be sure to allow for mailing time), you may contact the bureau to ask about the delay (see Appendix A to this part). You also have the right to consider any non-response within these time limits as a denial of records and file a formal appeal (see § 2.28(a)(3)) or lawsuit. These time limits do not apply to requests for expedited processing (see § 2.14).

(b) *Running of basic time limit.* The 20 workday time limit begins to run when a request complying with the procedures in §§ 2.8 and 2.10 is received by the FOIA contact at the bureau office that has the records you are seeking. This means that all issues regarding fees and the scope of your request must be resolved before the bureau will begin processing your request.

### § 2.13 When may the bureau take a time extension to respond to my request?

(a) The bureau may extend the 20-workday time limit for 10 more workdays when it needs to:

(1) Search for and collect the requested records from multiple offices; or

(2) Search for, collect, and examine a voluminous amount of separate and distinct records sought in a single request; or

(3) Consult with another agency having a substantial interest in the determination of the request or with one or more bureaus of the Department having substantial subject-matter interest in the request.

(b) If the bureau intends to take an extension under this subsection, it will notify you in writing and provide the reason for the extension and the date it expects to make a determination on your request.

(c) If an extension is necessary and the bureau is unable to respond to your request within 30 workdays, it will notify you in writing when you may expect a final response and advise you of your appeal rights. If an extension is taken and you have not received a response in 30 workdays, you may consider the request denied and file an appeal under § 2.28(a)(3) or file a lawsuit.

(d) A bureau may not take an extension of time to decide whether to grant a request for a fee waiver.

### § 2.14 When can I get expedited processing?

(a) When requested, a bureau will provide expedited processing if you demonstrate to the satisfaction of the bureau that the request involves:

(1) Circumstances in which the lack of expedited treatment could reasonably be expected to pose an imminent threat to the life or physical safety of an individual;

(2) An urgency to inform the public about an actual or alleged Federal Government activity if the request is made by a person primarily engaged in disseminating information. In most situations, a person primarily engaged in disseminating information will be a representative of the news media. The requested information must be the type of information which has particular value that will be lost if not disseminated quickly, and ordinarily

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refers to a breaking news story of general public interest. However, information of historical interest only, or information sought for litigation or commercial activities would not qualify, nor would a news media deadline unrelated to breaking news; or

(3) The loss of substantial due process rights.

(b) A request for expedited processing should be submitted with your FOIA request. For a prompt determination, you must submit a request complying with the requirements of §§ 2.8 and 2.10 to the FOIA Contact at the bureau office that maintains the records you are seeking.

(c) If you are seeking expedited processing, you must submit a statement explaining in detail the basis for your request. You must certify in your letter that your need for expedited processing is true and correct to the best of your knowledge and belief. For example, a requester within the category of paragraph (a)(2) of this section, if not a full time member of the news media, must establish that he or she is a person whose main professional activity or occupation is information dissemination, though it need not be his/her sole occupation.

(d) Within 10 calendar days of receipt of your request, the bureau will notify you whether it will grant expedited processing. If expedited processing is granted, the bureau will give priority to that FOIA request and process the request as soon as practicable. If expedited processing is denied, the bureau will notify you of your right to appeal the decision on expedited processing. Appeals of denials of requests for expedited processing will be processed ahead of other appeals (see § 2.32(b)). If the bureau has not responded to your request for expedited processing within 10 calendar days, you have a right to file an appeal for nonresponse (see § 2.28(a)(7)).

## § 2.15 Will I be charged fees?

Bureaus will charge fees consistent with the provisions in §§ 2.16 and 2.17. The fee schedule in Appendix C to this part applies to all bureaus of the Department.

## 43 CFR Subtitle A (10–1–03 Edition)

## § 2.16 How are fees determined?

(a) *Authority.* Bureaus are authorized to charge fees to recover the direct costs of searching for, reviewing (commercial-use requesters only) and duplicating documents to respond to a FOIA request. However, nothing in this subsection will supersede any statutory authority which requires the bureau to charge specific fees for certain types of records.

(b) *Policy.* (1) Unless waived under the criteria in §§ 2.19 or 2.20, bureaus will charge fees for responding to FOIA requests consistent with the provisions of this section and the fee schedule in Appendix C.

(2) A bureau normally will not charge a fee where the fee would be \$30 or less. However, if the bureau has a reasonable basis to conclude that a requester or group of requesters has divided a request into a series of requests on a single subject or related subjects to avoid fees, the requests may be aggregated and fees charged accordingly. Bureaus may presume that multiple requests of this type that are made within a 30-day period have been made in order to avoid fees. Where requests are separated by a longer period, bureaus will aggregate them only where there exists a solid basis for determining that aggregation is warranted under all the circumstances involved. Multiple requests involving unrelated matters will not be aggregated.

(3) Where a bureau responds to a request on behalf of more than one bureau, the fees that would be chargeable by all bureaus involved will be considered in determining whether the total FOIA processing fee is \$30 or less. If a bureau is responding on behalf of more than one bureau, and you fall under one of the fee categories in § 2.17(a)(2) or (a)(3), you will be entitled to receive up to a total of 100 pages of duplication without charge (there is no charge for searching for responsive records). If a bureau is responding on behalf of more than one bureau, and you fall under the fee category in § 2.17(a)(4), you will be entitled to receive up to a total of 100 pages of duplication and two hours of search time without charge.

(4) If a bureau obtains research data solely in response to your FOIA request, it may charge you a reasonable